

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 397 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
CHHAGAN KASANA HARIJAN

Versus

DEVGAD BARIA NAGAR PANCHYAT

-----  
Appearance:

MR BIPIN I MEHTA for Petitioners  
None present for respondents No.1 and 2  
MR HL JANI for Respondent No. 3

-----  
CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/03/97

ORAL JUDGMENT

The learned counsel for the petitioners, at the outset, made a statement that petitioners No.6, 9, 13 and 17 have already expired and as none of their legal heirs and representatives have been brought on record, the Special Civil Application abates so far as these petitioners are concerned. The Special Civil Applications in respect of petitioners No.6, 9, 13, and

17 is dismissed as having been abated.

2. The petitioners, the employees working in the District Panchayat, filed this Special Civil Application and prayer has been made for quashing and setting aside the order of the learned Civil Judge (S.D.), Godhra, dated 2nd April 1984, Annexure 'D', and for directions to the respondents to pay them the arrears of difference in salary, and other allowances and other benefits in accordance with the judgement of this Court in R.K. Soni's case and all other consequential benefits on the basis of that judgment.

3. The facts are not to be given in detail as the learned counsel for the petitioners submitted that identical matter, i.e Special Civil Application No.60 of 1978 has been decided by this Court which squarely covers the case in hand also. The papers of Special Civil Application No.60 of 1978 have been called and the order passed by this Court therein reads as under:

"For the reasons stated in the common oral Judgment recorded in Spl.C.A. No.59/78, the Court allows the petition and directs the respondents to make suitable orders under the Gujarat Panchayat Services (Absorption, Seniority, Pay and Allowances) Rules 1965 as regards the equivalence of the posts, fixation of pay scales for such posts, fixation of the petitioners at the appropriate stage in such pay-scales and other incidental matters covered by the said rules and to give effect to such orders from January 1, 1973.

The Court further directs the respondents to initially fix the pay scales and allowances and other conditions of service including House Rent Allowance, City Compensatory Allowance, leave benefits, medical benefits, retirement benefits etc. of the petitioners in the equivalent posts in the Panchayat service in accordance with the provisions of the Gujarat Panchayat Service (Absorption, Seniority, Pay and Allowance) Rules 1965 and simultaneously give to them the benefit of such of the accepted recommendations of the second Pay commission (Desai Pay Commission) in the said matters as were extended to the other officers and servants of the Panchayat service; alternatively having initially fixed the pay scales, allowances and other conditions of service in the equivalent post in accordance with

the said rules, to revise subsequently such pay scales and other conditions of service as per the accepted recommendations of the Second Pay Commission (Desai Commission) in the said matters with effect from January 1, 1973.

The Court further directs the respondents to extend the benefit of interim relief to the petitioners in the same manner in which the same was extended to the members of Panchayat service and further directs the respondents to pay to the petitioners amount payable to them as a consequence of the rationalization or revision of pay scales, allowances and other conditions of the service in pursuance of the directions given above.

The Court makes the rule absolute in the petition in the aforesaid terms with no order as to costs."

4. The dispute pertains to giving the benefit of revised pay scale to the petitioners by equating their posts with the posts in State Government. The case of the petitioners is that the matter is decided by this Court earlier and which judgment has been confirmed by the Hon'ble Supreme Court. The case of the respondents is that the liability of giving of the pay at par with the Government pay scale and the revised pay scale, is of the Panchayat and necessary direction has been given to the Panchayat to give these benefits to the petitioners failing which consequential action was stated to be taken but the Panchayat filed Civil Suit and injunction has been granted in their favour. So the respondent-State could not take any further action. However, the suit which has been filed by the Panchayat and the order made by the Civil Court, has no relevance in the present case. The petitioners submitted that this Court has given directions for giving of benefits of revised pay scale etc. in Special Civil Application No.60 of 1978 and the same directions may be given in this case also.

5. However, I do not consider it to be appropriate to give same directions in the present case, but I consider it to be appropriate to give directions to the respondent No.3 to decide whether the directions given by this Court in Special Civil Application No.60 of 1978 squarely covers the case of the petitioners or not. This exercise has to be undertaken by respondent No.3 within a period of three months from the date of receipt of writ of this order. In case the matter is decided in favour

of the petitioners, except petitioners No.6, 9, 13, and 17, they shall be entitled to all consequential benefits from the date of filing of this petition, i.e. from 27th December 1984 (round figuring to 1st January 1985). These consequential benefits should be given to the petitioners within a period of three months next thereafter. In case the claim of the petitioners is not acceptable, a reasoned order has to be made and a copy of the same may be sent to the petitioners by registered post. The Special Civil Application is disposed of in aforesaid terms. The Rule stands disposed of accordingly with no order as to costs.

.....

(s)